

# Exhibit B

COPY

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA  
3

4 LUCENT TECHNOLOGIES, ) Case No. 02CV2060-B(CAB)  
5 ) consolidated with  
6 Plaintiff, ) 03CV0699-B(CAB)  
7 ) 03CV1108-B(CAB)  
8 vs. ) related to:  
9 ) 06CV0684-B(CAB)  
10 )  
11 GATEWAY, INC., et al., ) San Diego, California  
12 )  
13 Defendants. )  
14 ) Tuesday  
15 ) January 30, 2007  
16 ) 9:00 a.m.  
17 )  
18 )  
19 )  
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23 )  
24 )  
25 )

VOLUME II

12 TRANSCRIPT OF TRIAL  
13 BEFORE THE HONORABLE RUDI M. BREWSTER  
14 UNITED STATES DISTRICT JUDGE, and a jury

14 APPEARANCES:

15 For the Plaintiff:

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25 transcript produced by transcription service.

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1 various parameters that are the subject of this software.  
2 Later on there are actual functions and subfunctions that  
3 perform, you know, specific operations of the kind we've  
4 been talking about.

5       So it's a -- it's a sometimes complex sometimes not so  
6 complex collection of lots of material describing in an  
7 overall sense how the computer executes whatever it is the  
8 code is supposed to execute.

9 Q     Okay. And you reviewed the source code that performed  
10 the MP3 encoding in the Windows Media Player?

11 A     The question. I'm sorry.

12 Q     Did you review the source code that performed the MP3  
13 encoding in Windows Media Player?

14 A     I did, yes.

15 Q     And did you review the source code that performed MP3  
16 encoding with the Cyberlink plug-in?

17 A     I did, yes.

18 Q     And that source code showed you the steps that the  
19 software takes in performing MP3 encoding?

20 A     That is correct.

21 Q     I'd like to start with your -- I'd like to go through  
22 your infringement analysis, and I'd like to start with the  
23 080 patent.

24 A     Okay.

25 Q     Let me show you what's been marked -- it's Plaintiff's

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1 A The three claims, claim one, claim three, and claim  
2 four of the 080 patent in question.

3 Q And are those the claims that you compared against  
4 these particular Microsoft products?

5 A Yes.

6 Q I'd like to start with claim one of the 080 patent.  
7 And could you turn in your demonstrative binder to slide 17,  
8 which is Plaintiff's Exhibit 3081.

9 A Yes.

10 Q And what is Plaintiff's Exhibit 3081?

11 A It's claim one of the 080 patent.

12 Q And would Plaintiff's Exhibit 3081 aid your explanation  
13 of claim one for the jury?

14 A Yes.

15 MR. APPLEBY: Your Honor, I'd like to offer  
16 Plaintiff's Exhibit 3081 as a demonstrative.

17 MR. GARTMAN: No objection, your Honor.

18 THE COURT: 3081 is received as demonstrative.

19 BY MR. APPLEBY:

20 Q Now, Doctor Jayant, could you tell us what we see on  
21 Plaintiff's Exhibit 3081?

22 THE COURT: Counsel, that red one is just not  
23 workable. Have you got something other than -- something  
24 other than red? I guess it -- maybe I can read it. Can you  
25 read it? Can the jury read that?

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1 MR. APPLEBY: We could also put it on the plasma  
2 if it would help.

3 THE COURT: Can you read that one? All right.  
4 Fine. Let's move on.

5 BY MR. APPLEBY:

6 Q And this is claim one of the 080 patent?

7 A Yes.

8 Q And I noticed that there's underlining in brackets in  
9 the claim. What does that represent?

10 A The top writing about the special claim interpretations  
11 by the Court. So we know there is a special claim  
12 construction by the Court. We have included that in square  
13 brackets and italics. So just before the square bracket you  
14 see the claim language, and within the square brackets you  
15 see the Court's interpretation of that part of the claim  
16 language.

17 Q And I notice that you have used several different  
18 colors here. Why is that?

19 A Yes. The claim -- this is a fairly long claim. It has  
20 got, as you can see, four steps, A, B, C, D. So we have  
21 color coded them so we can navigate these claims one by one  
22 and compare it against different parts of the code  
23 eventually.

24 Q Now, the gray portion is sometimes called the preamble,  
25 is that right?

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1 A Yes.

2 Q Could you explain to the jury what the -- what's being  
3 described by the preamble in gray?

4 A Yes. It is a method of coding an audio signal, and in  
5 this case the Court has defined the audio signal as a sound  
6 signal.

7 Q Now, moving to the first step, step A, could you  
8 explain to the jury what -- what's step A, the subject  
9 matter of step A?

10 A Yes. This is the time domain, the frequency domain  
11 transformation that we have been talking about this morning.  
12 So this talks about converting a time domain representation  
13 of the audio signal to a frequency domain representation of  
14 the audio signal. In this case, the Court has defined the  
15 time domain representation as the representation of the  
16 audio signal over time. It has defined the frequency domain  
17 representation of the audio signal as representation of the  
18 audio signal in terms of the frequencies contained within  
19 the signal.

20 Finally, this step goes on to say when you do this  
21 transformation, you end up with a set of frequency  
22 coefficients as we described this morning, and indeed the  
23 Court has defined frequency coefficients here as the  
24 components of a sound signal that together with their  
25 corresponding frequencies characterize the signal.

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1 Q Now, moving to step B, which is colored in orange,  
2 could you describe what the subject matter of step B is?

3 A Yes. This is the step of calculating the masking  
4 threshold that we were talking about earlier. In this case,  
5 the Court has defined the masking threshold as an estimate  
6 of the maximum amount of noise that can be added to a sound  
7 signal before the noise can be heard.

8 Q Now --

9 A Then the claim goes on to say calculating a masking  
10 threshold based on the set of frequency coefficients.

11 Q Now, I notice that there's no mention of tonality. Is  
12 the masking threshold calculated based on tonality in the  
13 080 patent?

14 A It is not required in the claims of the 080 patent.

15 Q That refers to the invention of the 457 patent, right?

16 A In this case it is, yes.

17 Q Now, could you -- stepping to step C, which we've  
18 colored in both yellow and green, could you explain the  
19 subject matter of step C?

20 A Yes. Very briefly, it's the step of taking the masking  
21 threshold, taking the absolute hearing threshold and using  
22 these in conjunction with a rate loop processor as we  
23 described this morning. Would you like me to recite the  
24 various parts, counsel?

25 Q I think that would be sufficient. Why don't we move to

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1 step D, which is the last step in blue and could you explain  
2 the subject matter of step D?

3 A The last step here talks about coding the set of  
4 frequency coefficients again, as we described this morning,  
5 based upon the set of quantization step size coefficients,  
6 in this case resulting from the use of step C.

7 Q I'd like to start with your analysis, Doctor, of  
8 Windows Media Player 10. What functionality of Windows  
9 Media Player 10 did you compare against claim one?

10 A The MP3 encoding capability.

11 MR. APPLEBY: Your Honor, at this point I think we  
12 could have the lights turned back on.

13 THE COURT: Very well.

14 BY MR. APPLEBY:

15 Q So Windows Media Player 10 contains an MP3 encoder?

16 A It does.

17 Q And how many MP3 encoders are included in Windows Media  
18 Player 10?

19 A Two. It has a Fast encoder and a High Quality encoder.

20 Q And what is the Fast encoder?

21 A The Fast encoder is an MP3 encoder. It serves as a  
22 default encoder in Windows Media Player 10.

23 Q And what is the High Quality encoder?

24 A The High Quality would be the fall back encoder in  
25 Windows Media Player 10. The reason for it being if for

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1 some reason the Fast encoder does not operate, there is  
2 specified a fall back.

3 Q And by fall back what do you mean?

4 A If the Fast encoder doesn't work, the system would fall  
5 back and try out the second encoder, the High Quality  
6 option, to complete the encoding function.

7 MR. APPLEBY: Your Honor, let me -- may I  
8 approach, your Honor?

9 THE COURT: Of course.

10 BY MR. APPLEBY:

11 Q Let me hand you what's been marked for identification  
12 as Plaintiff's Exhibit 1365. Could you just identify what  
13 those are for me? And feel free to look in the binder.

14 A This appears to be source code of the Windows Media  
15 Player 10 encoder.

16 Q Okay. Is that the source code of Windows Media Player  
17 10 that you reviewed to compare against the claims of the  
18 Lucent patent?

19 A Yes.

20 MR. APPLEBY: Your Honor, I'd like to offer  
21 Plaintiff's Exhibit 1365.

22 MR. GARTMAN: No objection, your Honor.

23 THE COURT: 1365 is received.

24 BY MR. APPLEBY:

25 Q Now, could you turn in your -- Doctor Jayant, in your

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1 demonstrative binder to Plaintiff's Exhibit 3078, which is  
2 slide 18.

3 A Yes.

4 Q And could you tell me what that is?

5 A It summarizes the functions of the Fast encoder in  
6 Windows Media Player 10.

7 Q And you -- you created this document based on your  
8 analysis of the source code?

9 A Yes.

10 Q And will Plaintiff's Exhibit 3078 assist you in  
11 explaining Windows Media Player and Fast encoder to the  
12 jury?

13 A Yes.

14 MR. APPLEBY: Your Honor, I'd like to offer  
15 Plaintiff's Exhibit 3078 as a demonstrative.

16 MR. GARTMAN: No objection, your Honor.

17 THE COURT: 3078 is received as a demonstrative.

18 MR. APPLEBY: And could Doctor Jayant step down  
19 and speak from the plasma screen?

20 THE WITNESS: Yes.

21 BY MR. APPLEBY:

22 Q And could you explain what we see on Plaintiff's  
23 Exhibit 3078?

24 A This shows the various steps in the Fast encoder code  
25 that we saw a few minutes ago in that big book, two books,

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1 and takes us through all the steps mentioned here such as  
2 the time to frequency transform, masking threshold  
3 calculation, composite threshold calculation, and then onto  
4 a quantization process which includes a looping procedure  
5 and rate loop processor that checks the bits used against  
6 the bit rate budget and then finally when it's all done, it  
7 goes on and packs the bits into a bit stream.

8 Q Okay. You may take your seat, Doctor Jayant. I now  
9 would like to go through your analysis element by element.  
10 And in your opinion, does Windows Media Player 10 Fast  
11 encoder meet the preamble of claim one which is a method of  
12 coding an audio signal?

13 A Can the jury see that, the red problem, or will it  
14 appear -- sorry for the interruption.

15 Q I can see it. Well, actually I'm asking you about the  
16 gray.

17 A Thank you. Yes. The Windows Media Player performs the  
18 gray function on this chart, yes.

19 Q And in what way does it do that?

20 A Well, the very purpose of Windows Media Player is to  
21 encode -- the Fast encoder in the Windows Media Player, the  
22 very purpose is to encode an audio signal exactly as  
23 described in the preamble to this claim.

24 Q Moving on to the first step, step A, does Windows Media  
25 Player 10 Fast encoder practice step A of claim one?

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1 A It does.

2 Q And have you prepared a demonstrative to show how?

3 A I have, yes.

4 Q Could you turn in your demonstrative binder to  
5 Plaintiff's Exhibit 3090, which is slide 19.

6 A Yes.

7 Q And is that the demonstrative you just referred to?

8 A Yes.

9 Q Would Plaintiff's Exhibit 3090 assist your presentation  
10 to the jury?

11 A Yes.

12 MR. APPLEBY: Your Honor, I'd like to offer  
13 Plaintiff Exhibit 3090 as a demonstrative.

14 MR. GARTMAN: No objection, your Honor.

15 THE COURT: Received as a demonstrative.

16 BY MR. APPLEBY:

17 Q And could you explain what we -- what we see on -- and  
18 maybe you could speak from the one in your demonstrative  
19 binder. I think it's on the plasma screen for the jury's  
20 benefit now.

21 A Okay.

22 Q If you could explain what we see on Plaintiff's Exhibit  
23 3090.

24 A Yes. So this is the part of the code which is  
25 described in what we call the psi underscore main dot C

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1 function. That's a part of the code, and this is the place  
2 where the code performs a bunch of functions, for example,  
3 the MP3 ENC encode function, and within that it calls  
4 another function called the advance psych dummy function.

5 But the end result of all of this is that it goes on to  
6 call yet another function called the NDCT transform. This  
7 is exactly the time domain to frequency domain transform  
8 that we've been talking about which is described in claim  
9 1(a).

10 Q Moving on to the second step, which is step B of claim  
11 one, did you find that step in Windows Media Player 10 Fast  
12 encoder?

13 A Yes, I did.

14 Q Have you prepared a demonstrative to show that step?

15 A Yes, I have.

16 Q Could you turn in your binder to Plaintiff's Exhibit  
17 3035, slide 20.

18 A Yes.

19 Q And is that the demonstrative you prepared?

20 A Yes.

21 Q And would that demonstrative aid your presentation to  
22 the jury?

23 A Yes, it would.

24 MR. APPLEBY: Your Honor, I'd offer Plaintiff's  
25 Exhibit 3035 as a demonstrative.

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1 THE COURT: 3035 is received as a demonstrative.

2 MR. GARTMAN: No objection, your Honor.

3 BY MR. APPLEBY:

4 Q And could you explain what we see in Plaintiff's  
5 Exhibit 3035, Doctor Jayant?

6 A Yes. This is part of the same over-arching piece of  
7 the code we had mentioned earlier, the advance psych dummy  
8 function. This is where the code goes on to perform several  
9 steps ending up with computing a masking threshold, and it  
10 stores this in a file called PB threshold, and these are the  
11 masking thresholds based on input frequency coefficients as  
12 required in step B of claim one of 080.

13 Q Now, moving on to step C, I'll start with the yellow  
14 portion. Did you find the yellow portion of step C in  
15 Windows Media Player Fast encoder?

16 A Yes.

17 Q And have you prepared a demonstrative to show us that?

18 A I have, yes.

19 Q Could you turn in your binder to Plaintiff's Exhibit  
20 3036, which is slide 21.

21 A Yes.

22 Q And is that the demonstrative that you just referred  
23 to?

24 A It is.

25 Q And would that demonstrative aid your presentation to

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1 the jury?

2 A It would.

3 MR. APPLEBY: Your Honor, I'd offer Plaintiff's  
4 Exhibit 3036 as a demonstrative.

5 MR. GARTMAN: No objection, your Honor.

6 THE COURT: Received as a demonstrative.

7 BY MR. APPLEBY:

8 Q And, Doctor Jayant, could you explain what we see in  
9 Plaintiff's Exhibit 3036?

10 A Yes. This is where we enter a part of the code called  
11 QC underscore main dot C. Dot C, by the way, is the way  
12 things are organized in the C language. QC underscore main  
13 dot C, and here we see the MP3 quantized spectrum function.  
14 The other C or what's here called a due loop. The due loop  
15 is the rate loop processor that we'll be talking about. It  
16 uses a global gain parameter to adjust the step sizes and  
17 therefore the bit rate to meet a certain target as required  
18 in element C or step C of claim one of the 080 patent.

19 Q Now, I'd like to talk about the green portion of step  
20 C. Did you find that in Windows Media Player 10, Fast  
21 encoder?

22 A Yes.

23 Q And did you prepare demonstratives -- demonstratives to  
24 show us that?

25 A Yes.

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1 Q And can I direct your attention to Plaintiff's Exhibit  
2 3038 and 3039.

3 A Yes.

4 Q Slides 22 and 23.

5 A Yes.

6 Q And are those demonstratives that illustrate the green  
7 portion of step C?

8 A That is correct.

9 Q Will they aid your presentation to the jury?

10 A Yes.

11 MR. APPLEBY: Your Honor, I'd offer Plaintiff's  
12 Exhibit 3038 and 3039 as demonstratives.

13 MR. GARTMAN: No objection, your Honor.

14 THE COURT: Received as demonstratives.

15 BY MR. APPLEBY:

16 Q Now, let's take 3038 first, Doctor Jayant. Could you  
17 tell us what we see in 3038?

18 A Yes. This is the part of the code where we are -- the  
19 code is completing PB threshold quiet. This is the absolute  
20 hearing threshold we talked about earlier. It already has  
21 the PB threshold, the masking threshold, and in this part of  
22 the code it goes on to generate the composite threshold we  
23 were mentioning earlier, and this composite threshold  
24 ultimately is given a name. It is called SFB threshold.

25 Q So in your opinion, does Windows Media Player 10 Fast

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1 encoder use an absolute hearing threshold?

2 A It does.

3 Q And where in the source code do we find the absolute  
4 hearing threshold?

5 A It is found in this file PB threshold quiet.

6 Q And how did you determine that PB threshold quiet meets  
7 the Court's definition of absolute hearing threshold, which  
8 is an estimate of the quietest sounds that a human ear can  
9 hear?

10 A Well, I went into the code of the Fast encoder. There  
11 were numbers and tables relating to the calculation by the  
12 code of this particular threshold. I went through all the  
13 numbers, all the tables, and all the various frequency bands  
14 that are involved, ended up plotting the shape of the PB  
15 threshold quiet as a function of frequency to see how it  
16 behaves as you go from low frequencies to high frequencies  
17 and confirmed that this was very much in the family of  
18 previous estimates of the absolute hearing threshold.

19 Q Could you turn in your exhibit binder to Plaintiff's  
20 Exhibit 1503.

21 A 1503?

22 Q Not the demonstrative binder but the exhibit binder.

23 THE COURT: I'm not sure I have that binder. What  
24 binder is that found in?

25 MR. APPLEBY: Should be the binder of exhibits for

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1 use with Doctor Jayant, Exhibit 1503.

2 THE COURT: That thick one that he's got?

3 MR. APPLEBY: It's actually not too thick.

4 It's --

5 THE COURT: What is it called in the --

6 MR. APPLEBY: Plaintiff's Exhibit 1503.

7 MR. GARTMAN: No objection, your Honor.

8 THE COURT: Very well. 1503 is received.

9 BY MR. APPLEBY:

10 Q Can we display 1503. Could you tell us what you see  
11 here, Doctor Jayant?

12 A Yes. You see several curves on this chart. They're  
13 all functions against the horizontal, which is the frequency  
14 going from, you know, 100 to 100,000. What's important here  
15 is that the -- the purple -- I believe it's purple -- the  
16 purple curve is the PB threshold quiet that I computed when  
17 looking at the code in the Fast encoder, and that shows the  
18 estimate of the absolute threshold in my opinion and also  
19 compared against it are a couple of other examples of the  
20 absolute hearing threshold.

21 MR. APPLEBY: Your Honor, would it be possible to  
22 put the lights on just for this one exhibit?

23 THE COURT: Yes.

24 BY MR. APPLEBY:

25 Q You can continue in your explanation, Doctor Jayant.

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1 A Yes. So the first step is that the Fast encoder, PB  
2 threshold quiet as I computed it, is demonstrated by the  
3 purple characteristic on this chart.

4 Q Now, what is the red line and the yellow line?

5 A The reddish line is the estimate of the absolute  
6 hearing threshold that is contained in the MP3 standard in  
7 the so-called D.4 table of the MP3 standard, and the yellow  
8 line is, again, from the MP3 standard, from its table C.7.

9 Q And why does the MP3 standard have two different  
10 absolute hearing thresholds?

11 A It offers two examples of hearing thresholds because  
12 there are many many conditions that the MP3 standard talks  
13 about, bit rates and sampling rates and ways of computing  
14 these functions. It just so happens it offers two estimates  
15 of this estimate that they're talking about, absolute  
16 hearing threshold.

17 Q I think in the beginning you talked about PB threshold  
18 quiet. Which curve is PB threshold quiet on this diagram?

19 A This is the Fast encoder characteristic, the purple  
20 curve.

21 Q And on the screen it -- does it appear more black than  
22 purple?

23 A It perhaps does. It perhaps does.

24 Q Then I also notice there's a blue line at the bottom.  
25 What is that?

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1 A The blue line is -- is a horizontal characteristic that  
2 doesn't have any interesting shape as a function of  
3 frequency. It is a characteristic that gets mentioned in a  
4 paper by Brandenburg called the OCF Paper, and I just showed  
5 that here just to show the difference between that flat  
6 characteristics and the rest of the family of curves which  
7 all follow a certain shape which is increasing at high and  
8 low frequencies and going through a valley in the mid  
9 frequency range.

10 Q Now, what conclusions, if any, about PB threshold quiet  
11 did you draw based on this exercise that you did here?

12 A Looking at all of these, the standards, curves, the two  
13 of them and the PB threshold quiet that I computed, it's my  
14 opinion that DB threshold quiet in the code is an estimate  
15 of the absolute hearing threshold.

16 Q It's an estimate of the quietest sounds a human can  
17 hear?

18 A It is, indeed, yes. They're the quietest sounds the  
19 human can hear as per the Court's claim construction --  
20 Court's construction.

21 MR. APPLEBY: Your Honor, I think we can lift the  
22 lights again.

23 BY MR. APPLEBY:

24 Q Now I'd like to return to the slide that we looked at a  
25 little earlier ago, which was slide 3039.

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1 A Yes.

2 Q Would you continue with your analysis of the green  
3 portion of step C.

4 A Yes.

5 Q Explain what we see on Exhibit 3039.

6 A Yes.

7 Q What do we see on 3039?

8 A This is the portion of the code where the code  
9 continues to make use of the composite threshold just  
10 described and then goes on to use the composite threshold to  
11 determine the scale factors, and the scale factors are,  
12 indeed, the quantization step size coefficients as required  
13 in the last part of step C of claim one of 080.

14 Q So, to summarize, does Windows Media Player 10 perform  
15 step C, both the yellow and green portions?

16 A Yes, it does.

17 Q One thing I'd like to ask you. Step C talks about  
18 using a rate loop processor. Do you have any reason to  
19 believe that Windows Media Player 10 Fast encoders actually  
20 perform an iterative looping process to quantize frequency  
21 coefficients?

22 A Yes, I believe it does it.

23 Q And why -- why do you believe that?

24 A Well, firstly by the very nature of the code and the  
25 way the code is written, it's all prepared to do looping

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1 operation which is the looping process we've been  
2 describing. In addition, it is my understanding that Doctor  
3 Polish, another expert in this case, has performed some  
4 special tests with the code to determine that indeed the  
5 code physically goes through a looping procedure, use the  
6 debugger as we called. These debugging steps help you to  
7 see where the code is at a certain point and what's  
8 happening within the code, and I understand that he was able  
9 to put this debugger, have a stop function, a flag come up  
10 when the code actually went to a certain point in the code,  
11 and I believe he found that indeed is the case, that it  
12 loops.

13 Q I'd like to move now to the final step of claim one,  
14 the blue step. Did you find that in Windows Media Player 10  
15 Fast encoder?

16 A Yes.

17 Q And did you prepare a demonstrative to illustrate that?

18 A Yes, I have prepared one.

19 Q Could you turn to Plaintiff's Exhibit 3048, slide 24.

20 A Yes.

21 Q Is that the demonstrative --

22 A Yes.

23 Q -- that you prepared? And would that demonstrative aid  
24 your presentation?

25 A It would.

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1 MR. APPLEBY: Your Honor, I offer Plaintiff's  
2 Exhibit 3048 as a demonstrative.

3 MR. GARTMAN: No objection, your Honor.

4 THE COURT: 3048 is received as a demonstrative.  
5 BY MR. APPLEBY:

6 Q And could you explain what we see on Plaintiff's  
7 Exhibit 3048, Doctor Jayant?

8 A Yes. This is the part of the code where, you know, we  
9 have this MP3 quantize spectrum function. It goes on to use  
10 the scale factors coming out of the looping process  
11 controlled by the term called global gain and ends up with  
12 the final design as we showed earlier with the rate loop  
13 processor entering steps all the way to the final steps in  
14 the rate loop processor. So when it goes to the right side  
15 of that rate loop processor, the final steps, it goes on and  
16 actually quantizes the frequency coefficients for coding at  
17 the end of the looping process as required in step D of  
18 claim one of 080.

19 Q Okay. Now that we've compared each of the steps of  
20 claim one to what is performed by Windows Media Player 10's  
21 Fast encoder, what is your opinion -- what conclusion, if  
22 any, did you reach regarding whether Windows Media Player 10  
23 Fast encoder infringes claim one?

24 A It's my opinion that Windows Media Player 10 infringes  
25 claim one of the 080 patent.

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1 THE COURT: 3079 is received as a demonstrative.

2 BY MR. APPLEBY:

3 Q Doctor Jayant, could you explain what we see on  
4 Plaintiff's Exhibit 3079?

5 A This is the part where the Cyberlink code is looking at  
6 the bit rate budget that we have been talking about. So  
7 this part of the code has the inner loop function. It can  
8 read how it increases the quantizer step size as in the  
9 picture on the upper part of the rate loop processor we  
10 described. It's doing it to compare the number of bits  
11 required for coding against the number of bits available as  
12 required in claim three of the 080 patent.

13 Q Okay. Based on your conclusion as to that step of  
14 claim three and your earlier analysis of claim one, what  
15 conclusion, if any, did you reach as to whether claim three  
16 is infringed by Windows Media Player with the Cyberlink  
17 plug-in?

18 A I see that claim three, a dependent claim on claim one,  
19 based on this analysis infringes -- is contained in the  
20 Cyberlink plug-in. Claim three is contained in the  
21 Cyberlink plug-in.

22 Q So claim three is infringed?

23 A Yes.

24 Q Now I'd like to move to claim four of the 080 patent.

25 A Okay.

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1 Q If you'd turn to your -- in your demonstrative binder  
2 to Plaintiff's Exhibit 3092.

3 A I have, yes.

4 Q And what is 3092?

5 A It's claim four of 080.

6 Q And would Exhibit 3092 assist you in explaining things  
7 for us?

8 A It would.

9 MR. APPLEBY: Your Honor, I'd offer Plaintiff's  
10 Exhibit 3092 as a demonstrative.

11 THE COURT: 3092 is received as a demonstrative.

12 MR. APPLEBY: And it may help if we dim the lights  
13 momentarily while we go through this.

14 BY MR. APPLEBY:

15 Q Now, Doctor Jayant, what relationship, if any, exists  
16 between claim one and claim four of the 080 patent?

17 A Claim four is the decoder for decoding frequency  
18 coefficients that would come out of the steps in claim one,  
19 the encoding step.

20 Q So claim one is a method for encoding?

21 A Yes.

22 Q And claim four is an apparatus for decoding an encoded  
23 bit stream?

24 A That is correct. Claim four is what we call an  
25 apparatus claim, a decoder claim to decode the coefficients

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1 that came out of the encoder of claim one.

2 Q Now, could you explain the preamble of claim four for  
3 us, which is colored in gray?

4 A Yes. The preamble, the top portion, talks about a  
5 decoder for decoding a set of frequency coefficients  
6 representing an audio signal.

7 Q And moving on to element A of claim four, could you  
8 explain that for us?

9 A Element A, you see the word "means." What it means is  
10 that this is a so-called means plus function element. There  
11 is a means and there's a function. It's a means plus  
12 function element.

13 Q What is a means plus function element?

14 A So it's a means plus function element which has the  
15 means for executing a certain function and the means plus  
16 function element typically also has a third aspect to it  
17 which is the structure. So there's a structure for  
18 executing the function, and generally in a case like this  
19 where there's a means, a function, and a structure for  
20 implementing generally the Court defines what the function  
21 is, and it defines what the structure is, and this kind of a  
22 means plus function claim covers not only the structure that  
23 you might find in the specification of the patent. It also  
24 covers what we call equivalent structures.

25 Q Now, what is the function defined by the Court for

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1 element A?

2 A It says right here the function is receiving the set of  
3 coefficients.

4 Q And what is the structure defined by the Court for  
5 element A?

6 A The Court's definition is, reading from here, a digital  
7 signal processor, DSP, a DSP with software, VLSI hardware  
8 embodiments or hybrid DSP/VLSI embodiments.

9 Q What is a DSP?

10 A DSP is a digital signal processor which processes  
11 digital data.

12 Q And what is VLSI hardware?

13 A VLSI stands for very large scale integration. Usually  
14 when something is manufactured in very very large  
15 quantities, it will be done in a cost-effective manner. It  
16 will be done in a footprint effective manner. Large degree  
17 of integration exists to create a small chip. VLSI refers  
18 to that kind of technology integration and the hardware  
19 coming out of that kind of technology integration.

20 Q It refers to the computer chip?

21 A It could refer to the computer chip, for example, yes.

22 Q Do personal computers have DSPs and VLSI hardware?

23 A They do.

24 Q I'd like to move to the sub-elements, sub-elements  
25 (a) (1) through (a) (4) of claim four. Could you explain

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1 those for us?

2 A These sub-elements are actually elements we have  
3 considered before. You might recognize that (a)(1) through  
4 (a)(4) are simply the encoding steps that we have been  
5 describing so far. So the reason they are here is because  
6 the connection we discussed earlier between the decoder and  
7 the encoder whose bit stream, whose frequency coefficients  
8 are now being decoded. So the sub-elements are the encoder  
9 steps.

10 Q And so are those elements of claim four met by the  
11 Windows Media Player products that we looked at with respect  
12 to claim one?

13 A Yes.

14 Q For the reasons you already testified to?

15 A That is correct.

16 Q Now, let's step to the bottom, element B. Could you  
17 explain element B of claim four?

18 A Yes. So this is also a means plus function element.  
19 So there's a means. There's a function. There's a  
20 structure. In this case, the function, as defined by the  
21 Court, is converting the set of coefficients to a time  
22 domain signal. They are now having the frequency to time  
23 domain transformation to get back the analog music signal at  
24 the end of the chain. The structure is the same as in  
25 element A, the same kind of definition for the structure.

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1 So B is talking about a means plus function and a structure  
2 for converting the frequency domain coefficients to a time  
3 domain music or audio signal.

4 Q I'd like to go through your analysis. Let's start with  
5 Windows Media Player 10. What functionality of Windows  
6 Media Player -- before I get to that, I think this might be  
7 a good time to raise the lights. What functionality of  
8 Windows Media Player 10 did you analyze with respect to  
9 claim four?

10 A The decoding capability.

11 Q The decoding capability?

12 A Yes.

13 Q And that's the capability of decoding MP3 files?

14 A It's the capability of decoding MP3 encoded files,  
15 that's correct.

16 Q And can Windows Media Player 10 play MP3 files that  
17 have been encoded using the process of claim one?

18 A Yes.

19 Q And how do you know that?

20 A Well, we had the demo this morning before lunch -- was  
21 it before or after lunch? It's been a long day. We had the  
22 demo, and we had the RIP'ing of the CD audio, and as a  
23 result of the RIP'ing, we had the file that was called .MP3,  
24 the library MP3 format bit stream. And I believe we  
25 demonstrated that Windows Media Player 10, which you had on

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1 the same computer, went ahead and decoded and played back  
2 the music that we originally encoded. So I demonstrated the  
3 decoding capability, MP3 decoding capability of Windows  
4 Player 10.

5 Q Okay. Turning back to the language of claim four, does  
6 a computer with Windows Media Player 10 meet the preamble of  
7 claim four?

8 A Yes.

9 Q And why?

10 A Because the preamble requires a decoder. It is an  
11 apparatus claim, and what the preamble requires is that the  
12 computer or the media player platform is capable of the  
13 decoding operation.

14 Q Now, moving to element A, does a computer with Windows  
15 Media Player 10 perform the function of element A of claim  
16 four?

17 A It does.

18 Q And why do you say that?

19 A We demonstrated earlier in the demonstration today that  
20 the Windows Media platform has the capability of receiving  
21 the MP3 formatted bit stream to proceed with the decoding  
22 operation. That was demonstrated earlier today.

23 Q And does a computer with Windows Media Player 10  
24 perform that function using structures that are identical or  
25 equivalent to the structure that's been defined by the

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1 Court?

2 A It does, yes.

3 Q And can you explain why?

4 A So what is happening in the decoding part of the  
5 Windows Media Player 10 in this case is that there is a  
6 software element which is the decoding functionality. It  
7 resides on a hardware platform in the computer into which  
8 the Windows Media Player software platform is installed. So  
9 the software hardware combination that does the decoding and  
10 the playback is exactly as permitted or described by the  
11 Court's claim construction of the structure.

12 Q And in performing the function of element A, is  
13 Windows -- is a computer with Windows Media Player 10  
14 capable of receiving and decoding a bit stream encoded with  
15 steps (a)(1) through (a)(4) of claim four?

16 A Yes.

17 Q So, to summarize, does a computer with Windows Media  
18 Player 10 meet element (a) of claim four of the 080 patent?

19 A It does.

20 Q Including all the sub-elements?

21 A It does, yes.

22 Q Let's move on to element B. Does Windows Media Player  
23 10 on a computer perform the function of element B of claim  
24 four?

25 A It does.

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1 Q Could you explain why?

2 A We've demonstrated that it, indeed, performs the  
3 function of converting the frequency coefficients in the bit  
4 stream to a time domain audio signal that we have heard.

5 Q And does it perform that signal using structure that is  
6 identical or equivalent to the structure defined by the  
7 Court for that element?

8 A Yes, and for the same reasons we used earlier with  
9 respect to element A.

10 Q So, to summarize, does a computer with Windows Media  
11 Player 10 meet element B of claim four of the 080 patent?

12 A It does.

13 Q Based on that analysis, what conclusion have you  
14 reached with respect to Windows Media Player 10 and claim  
15 four?

16 A That Windows Media Player 10 infringes claim four of  
17 the 080 patent.

18 Q Now, did you analyze -- no. Before I get to that, does  
19 a computer loaded with Windows Media Player 10 infringe  
20 claim four even if it is never used to RIP or play back an  
21 MP3 file?

22 A Yes.

23 Q And why is that?

24 A Because this is -- claim four is what is called an  
25 apparatus claim, and I understand that in this kind of a

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1 claim, all we need to demonstrate is that the computer in  
2 this case is capable of the operation we are talking about.

3 Q Now, I'd like to move to Windows Media Player 11. Did  
4 you analyze Windows Media Player 11 with respect to claim  
5 four?

6 A I did.

7 Q What, if anything, did you conclude?

8 A I concluded that it indeed also infringes claim four.

9 Q And why is that?

10 A Because I went ahead and performed the same experiment  
11 as we did this morning with Windows Media Player 10. I took  
12 the same MP3 format bit stream created by Windows Media  
13 Player 10 and verified that Windows Media Player 11 has the  
14 same capability of decoding and playing back the music  
15 signal.

16 Q So Windows Media Player 11 infringes claim four for the  
17 same reasons that Windows Media Player 10 does?

18 A Yes.

19 Q And did you analyze Windows Media Player versions 6.1  
20 through 9 with respect to claim four?

21 A I did the same experiment -- the answer is yes. I did  
22 the same experiment and checked that all of these earlier  
23 versions are capable of decoding and playing back a .MP3  
24 formatted bit stream, MP3 encoded bit stream.

25 Q So Windows Media Player 6.1 through 9 infringes for the

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1 same reason as Windows Media Player 10 and 11?

2 A That is correct.

3 Q And, finally, did you analyze whether Windows Media  
4 Player with the Cyberlink plug-in would infringe claim four?

5 A Yes.

6 Q And what, if anything, did you conclude?

7 A Same conclusions as before, same reasoning. We note,  
8 of course, that the Cyberlink plug-in just refers to the  
9 encoding operation I did verify that the decoding steps are  
10 also met. So claim four is a decoding capability. It is  
11 met by a Windows Media Player if it has the encoding plug-in  
12 capability of Cyberlink.

13 Q And the Windows Media Player with the Cyberlink plug-in  
14 would be one of these other versions of Windows Media  
15 Player?

16 A That is correct.

17 Q And so it infringes for the same reasons you discussed  
18 before?

19 A Yes.

20 Q Would you turn in your exhibit binder to Exhibit  
21 1365(a).

22 A 1365(a). Yes.

23 Q What is Exhibit 1365(a)?

24 A It is a collection of pages that provide a summary -- a  
25 summary of the Fast encoder source code, summary of the Fast

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1 MR. BUSTAMANTE: Is Mr. Bondor here?

2 MR. DESMARAIS: No. Paul's not in the courtroom.

3 MR. BUSTAMANTE: He's not here?

4 MR. DESMARAIS: I'm not saying we don't have an  
5 agreement. All I'm saying is that this methodology of  
6 reading things into the record when I'm not looking at it is  
7 not the way to go.

8 MR. BUSTAMANTE: Well, I apologize, but the Court  
9 invited us to do this. But fine. We're happy to way.

10 MR. DESMARAIS: Yeah. Let us --

11 MR. BUSTAMANTE: At the next opportunity if we  
12 could when the Court's out of session, we can hopefully  
13 address this. Thank you very much.

14 (Proceedings concluded.)

15  
16 I certify that the foregoing is a correct  
17 transcript from the electronic sound recording of the  
18 proceedings in the above-entitled matter.

19  
20 Thonna Mowrer  
21 Transcriber

11/31/07  
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